

ESTTA Tracking number: **ESTTA139259**

Filing date: **05/07/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91176765
Party	Defendant Fortune Fashions Industries, LLC Fortune Fashions Industries, LLC attn: Bruce Goldberg 4700 S. Boyle Avenue Vernon, CA 90058
Correspondence Address	Kurt Koenig Koenig & Associates 226 E. Canon Perdido, Suite M Santa Barbara, CA 93101  Kurt@incip.com
Submission	Answer
Filer's Name	Kurt Koenig
Filer's e-mail	Kurt@incip.com
Signature	/Kurt Koenig/
Date	05/07/2007
Attachments	RockofAgesAnswer.pdf ( 5 pages )(85715 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ROCK OF AGES CORPORATION	)	
	)	Opposition No. 91176765
	)	
OPPOSER,	)	Serial No. 78830296
	)	
v.	)	Mark: ROCK OF AGES
	)	
FORTUNE FASHIONS	)	Application Filing Date: March 6, 2006
INDUSTRIES, LLC	)	
	)	
APPLICANT.	)	Publication Date: October 17, 2006
	)	

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, VA 22313-1451

**APPLICANT’S ANSWER TO OPPOSITION**

Fortune Fashions Industries, LLC (“Applicant”), by its attorneys, hereby answers the allegations set forth in the Notice of Opposition filed by Rock of Ages Corporation (“Opposer”) on April 16, 2007 as follows:

1. Applicant is without knowledge or information sufficient to form a belief or sufficient to truthfully admit or deny the allegations of Paragraph 1 and, therefore, Applicant denies any and all allegations therein.

2. Applicant admits that the USPTO records located online at the USPTO website appear to show Opposer as the listed owner of Registration Nos. 095516, 284826, 286033, 641854, 641855, 1002808, 1544467, 3050467. Applicant is without knowledge or information sufficient to form a belief or sufficient to truthfully admit or deny any and all remaining allegations of Paragraph 2 and, therefore, Applicant denies any and all remaining allegations therein.

//

3. Denied.

4. Applicant is without knowledge or information sufficient to form a belief or sufficient to truthfully admit or deny the allegations of Paragraph 4 and, therefore, Applicant denies any and all allegations therein.

5. Applicant is without knowledge or information sufficient to form a belief or sufficient to truthfully admit or deny the allegations of Paragraph 5 and, therefore, Applicant denies any and all allegations therein.

6. Applicant is without knowledge or information sufficient to form a belief or sufficient to truthfully admit or deny the allegations of Paragraph 6 and, therefore, Applicant denies any and all allegations therein.

7. Applicant admits that Applicant filed Application Serial No. 78830296 for the mark ROCK OF AGES (“Applicant’s Mark”) for the goods noted in such application. Applicant is without knowledge or information sufficient to form a belief or sufficient to truthfully admit or deny any and all remaining allegations of Paragraph 7 and, therefore, Applicant denies any and all remaining allegations therein.

8. Admitted.

9. Denied.

10. Admitted, except that, Applicant denies that Applicant was required to obtain any authorization from Opposer to file its application.

11. Denied.

12. Denied.

13. Denied.

14. Denied.

15. Denied.

16. Denied.

17. Admitted, except that, Applicant denies that Applicant was required to obtain any authorization from Opposer to file its application.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Applicant is without knowledge or information sufficient to form a belief or sufficient to truthfully admit or deny the allegations of Paragraph 23 and, therefore, Applicant denies any and all allegations therein. Applicant denies that Opposer's mark is famous.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

### **AFFIRMATIVE DEFENSES**

As and for separate affirmative defenses to Opposer's Notice of Opposition, Applicant states the following:

30. AS A FIRST AFFIRMATIVE DEFENSE, Opposer fails to state a claim upon which relief may be granted.

31. AS A SECOND AFFIRMATIVE DEFENSE, each of Opposer's claims is barred by the doctrine of laches.

32. AS A THIRD AFFIRMATIVE DEFENSE, each of Opposer's claims is barred by the doctrine of estoppel.

33. AS A FOURTH AFFIRMATIVE DEFENSE, each of Opposer's claims is barred by the doctrine of waiver.

34. AS A FIFTH AFFIRMATIVE DEFENSE, each of Opposer's claims is barred by the doctrine of acquiescence.

//  
//

WHEREFORE, in view of the foregoing, Applicant contends this Opposition is groundless and baseless in fact; that Opposer has not shown wherein it will be, or is likely to be, damaged by the registration of Applicant's Mark and Applicant prays that the Notice of Opposition be dismissed in its entirety and that a Notice of Allowance issue to Applicant for the Application.

Respectfully submitted,

**FORTUNE FASHIONS INDUSTRIES, LLC**

Dated: May 7, 2007

By: \_\_\_\_\_

  
Kurt Koenig

KOENIG & ASSOCIATES  
226 East Canon Perdido St., Suite M  
Santa Barbara, CA 93101  
Tel: 805-965-4400  
Fax: 805-564-8262  
Email: Kurt@incip.com

Attorneys for Applicant

---

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing "APPLICANT'S ANSWER TO OPPOSITION" was served on May 7, 2007 by first-class mail, postage prepaid, to Opposer's counsel addressed as follows:

Mr. Adam D. Resnick  
Arent Fox LLP  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036

  
Kurt Koenig

Dated: May 7, 2007

---

---

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that this correspondence is being transmitted by electronic mail to the United States Patent and Trademark Office via ESTTA on the date identified below.

Dated: May 7, 2007

  
Kurt Koenig  
Koenig & Associates  
226 East Canon Perdido Street, Suite M  
Santa Barbara, CA 93101  
Tel: 805-965-4400 x32  
Fax 805-564-8262

---